

Public Necessity Rules  
of the  
Department of Commerce and Insurance  
Tennessee Board for Licensing Contractors

Statement of Necessity Requiring Public Necessity Rules

Pursuant to T.C.A. § 4-5-209, the Board for Licensing Contractors ("Board") is authorized to promulgate public necessity rules in the event that the rules are required by an enactment of the general assembly within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in T.C.A. Title 4, Chapter 5, for the promulgation of permanent rules.

T. C. A. § 62-6-138 and Chapter 657 of the Public Acts of 2006 (hereinafter "Act") requires the Board for Licensing Contractors to establish rules for reviewing and approving pre-licensing general contracting educational courses effective January 1, 2007. Public necessity rules are required in order to establish the requirements for approval of pre-licensing providers of general contractor educational courses to be in effect with enough time for interested persons to file applications. The Act makes providing a pre-licensing course without approval by the Board for Licensing Contractors unlawful on January 1, 2007 unless the provider has met a number of prerequisites for approval established by the Board. These rules are necessary for the Board for Licensing Contractors to establish application requirements and to begin accepting and considering applications for providers of pre-licensing courses on January 1, 2007.

Due to the length of time necessary to complete the rulemaking process, these public necessity rules are required in order for the Board for Licensing Contractors to comply with the enactment of the general assembly and to ensure that the Board for Licensing Contractors has the resources necessary to implement the Act. The Board for Licensing Contractors is conducting a rulemaking hearing on January 24, 2007 to consider comments on the adoption of these as permanent rules.

For a copy of this public necessity rule, contact Carolyn Lazenby, Executive Director of the Board for Licensing Contractors at 500 James Robertson Parkway, Davy Crockett Tower, 1st Floor, Nashville, Tennessee 37243, telephone (615) 741-8307.

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Public Necessity Rules  
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Department of Commerce and Insurance  
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Chapter 0680-5  
Pre-Licensing Courses

New Rules

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0680-5-.01 Definitions.

- (1) "Board" means the board for licensing contractors created by T.C.A. § 62-6-104.
- (2) "Pre-licensing course" means any course or workshop related to the practice of general or specialty contracting offered to assist an applicant for preparation of an examination required by the Board excluding courses offered by any public institution.
- (3) "Provider" means any person or entity who offers a pre-licensing course designed to assist an applicant for preparation of an examination required by the Board.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.02 Application.

- (1) Any provider who offers any pre-licensing course shall submit an application on the form prescribed by the Board. The application shall be verified and accompanied by:
  - (a) a non-refundable fee in the amount provided in rule 0680-5-.03;
  - (b) a resume for each instructor of such course outlining the instructor's education and experience;
  - (c) a detailed description of the content of such course(s);
  - (d) the projected schedule for the teaching of such course(s);
  - (e) a surety bond to the State of Tennessee Board for Licensing Contractors as obligee in a minimum amount of fifty thousand dollars (\$50,000); and

- (f) such other information as the Board may reasonably request.
- (2) The applicant shall demonstrate to the satisfaction of the Board that each course submitted for approval will:
  - (a) cover subjects which are reasonably related to the practice of construction and suitable to benefit and enrich the students enrolled;
  - (b) be conducted in a facility that contains adequate space, seating, and equipment; and
  - (c) provide adequate means to make up for all classes missed by a student;

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

#### 0680-5-.03 Fees.

- (1) The application and renewal application fee is one thousand five hundred dollars (\$1500) per provider.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

#### 0680-5-.04 Course Approval Periods.

- (1) Each pre-licensing course approval shall remain effective for three (3) years from the date of approval. After three (3) years, the approval of the Board shall expire, unless the Board, after reviewing a renewal pre-licensing course application, approves the course for another such time period.
- (2) All pre-licensing course providers shall be required to resubmit their courses for approval at least one hundred twenty (120) days prior to the applicable expiration date. Failure to meet this deadline may result in the non-approval of a course.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

#### 0680-5-.05 Changes in Applications.

- (1) Any material change in any information furnished in connection with any application of a pre-licensing course (including, but not limited to, an address change of a provider, information concerning course content, instructors, and facilities) shall be submitted to and approved by the Board before taking effect.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

#### 0680-5-.06 Withdrawal of Approval.

- (1) Approval of any course(s) may be withdrawn by the Board if:
  - (a) the establishment or conduct of a course violates, or fails to meet the requirements of, the provisions of this chapter or other applicable law;

- (b) the information contained in the application is materially inaccurate or misleading;
- (c) the provider, an instructor, or any other school representative disseminates false or misleading information concerning any course;
- (d) the sponsor, an instructor, or any other school representative possesses, claims to possess, reveals, or distributes any questions utilized in examinations given by the Board;
- (e) the performance of the instructor is so deficient as to impair significantly the value of a course provided, however, that the instructor shall receive adequate notice of the discovered deficiency and opportunity to demonstrate satisfactory correction thereof; or
- (g) the provider, an instructor, or any other school representative disseminates false or misleading information regarding classifications, law, or entices an applicant to apply for unnecessary classes or purchase unnecessary course materials.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

#### 0680-5-.07 Promotional Materials.

- (1) All materials used for advertising or promoting any pre-licensing course shall contain statements or claims that are factually supported.
- (2) No provider shall advertise or promote that fees charged for the pre-licensing courses will be waived if the student fails to pass any examination required by the Board;
- (3) No provider shall advertise or promote any guarantee that a student will successfully pass any examination required by the Board; and
- (4) No provider shall advertise that it has been specially endorsed by the Board.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

#### 0680-5-.08 Relationship with Accountants and Insurance Brokers.

- (1) No provider offering a pre-licensing course shall advise students on financial accounting, insurance requirements or recommend, offer or encourage students to retain a particular accountant, accounting firm or insurance broker to complete any application requirements for a license under T.C.A. § 62-6-101 et. seq.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. 62-6-108 and 62-6-138 [effective January 1, 2007].

#### 0680-5-.09 Inspections.

- (1) By applying for the Board's approval of any pre-licensing course, the applicant agrees the Board or its authorized representative may perform periodic inspections and monitoring for the purposes of evaluating facilities, course content, instructor performance, or any other relevant aspect of the administration and conduct of such course.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, 2007].

0680-5-.10 Citation Penalties.

- (1) The Executive Director of the Board may issue citations against providers offering pre-licensing courses for any violation of T.C. A. § 62-6-138 or any rule contained herein. Each citation shall contain an order to cease all violations of this chapter, and an assessment of a civil penalty in accordance with the following schedule:

<u>Violation</u>	<u>Penalty</u>
T.C.A. § 62-6-138	\$250 - \$1,000

- (2) In determining the amount of any penalty to be assessed pursuant to this rule, the Executive Director may consider such factors as the following:
- (a) whether the amount imposed will be substantial economic deterrent to the violator;
  - (b) the circumstances leading to the violation;
  - (c) the severity of the violation and the risk of harm to the public;
  - (d) the economic benefits gained by the violator as a result of noncompliance;
  - (e) the interest of the public;
  - (f) willfulness of the violation;
  - (g) extent to which the licensee has sought to compensate any victim(s) of the violation.

Authority: Chapter 657 of the Public Acts of 2006, §§ 2 and 3 and T. C. A. §§ 62-6-108 and 62-6-138 [effective January 1, Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:

The public necessity rules set out herein was properly filed in the Department of State on this the 27th day of December, 2006, and will be effective from the date of filing for a period of 165 days. These public necessity rules will remain in effect through the 10th day June, 2007. (12-28-06)